

**From:** [Diane Wagenbrenner](#)  
**To:** [Stanton, Larry](#)  
**Cc:** [Matthiessen, Craig](#); [Stern, Allyn](#); "Barbara Wiseman"; [Stanislaus, Mathy](#); [Stanton, Larry](#); [Lynch, Mary-Kay](#); [Diane Feinstein@Feinstein.senate.gov](#); [Maria Cantwell@cantwell.senate.gov](#); [Patty Murray@Murray.senate.gov](#); [Barbara Boxer@Boxer.senate.gov](#); "Walter B Parker"; "Jeanne Pascal"; [Mccarthy, Gina](#); [Mark Begich@Begich.senate.gov](#); [Lisa Murkowski@Murkowski.senate.gov](#); [Ron Wyden@Wyden.senate.gov](#); [Edward Markey@Markey.senate.gov](#); [Tulis, Dana](#); [michael.k.sams@uscg.mil](#); [Broyles, Ragan](#); [McQuiddy, David](#); [Mason, Steve](#); [todd.m.peterson@uscg.mil](#); [stephen\\_spencer@ios.doi.gov](#); [charlie.henry@noaa.gov](#); [Steve.Buschang@glo.texas.gov](#); "Dahr Jamail"; "Abraham Lustgarten"; "Dawn Taylor"; "Suzanne Yohannan"; [agcrowe@agcrowe.com](#); [John Cornyn@senate.gov](#); "Richard Charter"  
**Subject:** EPA Administrator--Current Texas Oil Spill-- Intervention Request re: NRT Chair/LAEO response, FOIA incomplete.  
**Date:** Tuesday, March 25, 2014 10:29:45 AM  
**Attachments:** [Efficacy Documentation Summary.pdf](#)  
[Feb 18 Letter\\_OSE II Efficacy.docx](#)  
[Bio aquatic lab NCP complete testing.pdf](#)  
[EPA Clean Water Act Violations Letter to Key SenatorsFF.pdf](#)  
[LAEO to NRT10.23.2013.docx](#)  
[LAEOChangeSpillResponsePositionPaperFF.pdf](#)  
**Importance:** High

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Dear Mr. Stanton, I did not receive a response from Dana Tulis to the email below before she went on a leave. The last information I was given was that a response to our FOIA request and adjudication for OSE II use in the Gulf of Mexico had been prepared but was *with management for approval*. Given the new dire circumstances and threat to migratory birds associated with the 168,000 gallon barge spill in the Texas Gulf of Mexico region, I am asking for urgent consideration to our original request of Oct 23, 2013.

I recommend the entire history of this email string between Ms. Tulis and LAEO be reviewed along with efficacy documentation (attached) and due consideration be made to use OSE II on the thick oiled shorelines and sensitive bird habitats being impacted by this spill. Mechanical clean up and boom alone are not going to handle it and while we have heard rumors that dispersants are being used on this spill at night, we have no credible reports on this, but are nevertheless very concerned. There is a solution for this spill! We would like to schedule an emergency conference call to address. There is no time to lose and dealing with lower levels has failed to produce any results.

Best Regards, Diane

Diane Wagenbrenner

VP Operations & Public Information

Lawrence Anthony Earth Organization

***Because None Survive Alone***

Campaign Coordinator: [www.ProtectMarineLifeNow.org](http://www.ProtectMarineLifeNow.org)

Change Oil Spill Response Global Alliance Member

email: [dianeeearthorg@att.net](mailto:dianeeearthorg@att.net)

***Helping members of our planetary ecosystems who cannot speak for themselves***

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**From:** Diane Wagenbrenner [<mailto:dianeeearthorg@att.net>]

**Sent:** Tuesday, March 11, 2014 9:58 AM



9550595

**To:** 'Tulis, Dana'

**Cc:** 'Matthiessen, Craig'; 'McLerran, Dennis'; 'Garbow, Avi'; 'Stern, Allyn'; 'Barbara Wiseman'; 'Stanislaus, Mathy'; 'Stanton, Larry'; 'Lynch, Mary-Kay'; 'Diane\_Feinstein@Feinstein.senate.gov'; 'Maria\_Cantwell@cantwell.senate.gov'; 'Patty\_Murray@Murray.senate.gov'; 'Barbara\_Boxer@Boxer.senate.gov'; 'Walter B Parker'; 'Jeanne Pascal'; 'Mccarthy, Gina'; 'Mark\_Begich@Begich.senate.gov'; 'Lisa\_Murkowski@Murkowski.senate.gov'; 'Ron\_Wyden@Wyden.senate.gov'; 'Edward\_Markey@Markey.senate.gov'

**Subject:** RE: EPA Administrator, Intervention Request re: NRT Chair/LAEO response, FOIA incomplete.

Thank you, Ms. Tulis,

I appreciate your filling us in on progress. I also appreciate the information regarding your review of our position paper. Be advised that LAEO's paper, *A Call for a Twenty-First Century Solution in Oil Spill Response*, was peer reviewed by quite a number of qualified professionals and scientists (including several 25-year, EPA-retired veterans), so we're expecting that the information you find in there will be accurate. Having a meeting to address any questions you may have would be welcome. I would like to ask that, prior to such a meeting, we be presented with the questions you have, in writing, so that we can prepare the information ahead of time. I will also have some of our Science and Technology Committee members available for such a meeting.

Re: Your 6 Mar 2014 Response re FOIA Request being complete:

While I do not agree that EPA has had no responsibility historically and presently for any decisions regarding the use of chemical dispersants on an oil discharge, I will set that aside for a moment. Our FOIA request also asks for documents pertaining to the ["denial of requested non-toxic alternative--OSE II \[and how this denial\] is \[scientifically\] justified."](#) As covered in previous correspondence, we have personal knowledge of several recent instances where OSC's have specifically requested to use OSE II and EPA officials have denied or stopped the process from proceeding forward, citing the 'May 2000 Bioremediation Fact Sheet' as guidance that deems it *inappropriate*, while making erroneous verbal conclusions and statements re OSE II to the OSC, RP and other officials present or involved. We are quite sure there are internal memos, emails or directives from EPA, Coast Guard and possibly others that interceded against OSC and RP requests for OSE II to be used in the Gulf of Mexico and on several other spills since. This is what we are interested in receiving data on, per our FOIA request. However, this would become an irrelevant point if the *Fact Sheet* was corrected and the former *OSE II use denials* were withdrawn, resulting in permitting OSE II to be used on navigable waters in the United States.

To be clear, we are not trying to 'get EPA approval' on a specific product, but rather, just correct information that has been disseminated throughout the RRT system by the EPA, NOAA and Coast Guard that is causing a problem when the FOSC or RP seek to use OSE II for a spill. Our interest is paving the way for clean up that removes the pollutant as close to 100% as possible with virtually no tradeoffs or toxic effects on the eco

system.

You state in your 6 Mar 2014 response: *“OSE II is on the Product Schedule and can certainly be used by the OSC as deemed appropriate.”* This is the actual problem we are seeking to resolve: what you are *saying* is exactly per CFR 40, but has most definitely not been the case in the real world. OSE II while successfully used all over the world in oceans, shorelines, sensitive estuaries with mangroves, etc., as well as on soil and U.S. interior environments, is not being permitted to be used in U.S. navigable waters by EPA officials — and, based on the EPA’s history of actions, this *decision* appears to have been in place for many years. It is scientifically unjustified and arbitrary.

However, based on what you say here, I am taking this to mean that you are indicating that if a State or Federal On Scene Coordinator requests the use of OSE II on U.S. navigable waters, that EPA/NOAA or Coast Guard will no longer intervene using the faulty science contained in the “Bioremediation Fact Sheet” or any other non-transparent, verbal or non-science based statements or directives to prevent or otherwise stop, impede or discourage an OSC from choosing this agent for a response? Or if they do, any denial will be given expressly in writing with science based reasons for such a denial? If so, please confirm that, in writing, on official EPA stationery.

Regarding your statement that the EPA has no responsibility historically and presently for any decisions regarding the use of chemical dispersants on an oil discharge, there are many examples of EPA officials directly influencing decisions to use and promotion of use of chemical dispersants. As just one example, if you review the transcripts of the EPA/Coast Guard co-chaired public meetings held in Alaska in November of 2013, as well as the PowerPoint presentation lead by Chris Fields, the EPA Co Chair for ARRT at those meetings, you will find that the EPA, through positive-slanted information and recommendations being disseminated re pre authorization of chemical dispersant use in Alaskan waters is being strongly advocated for by the EPA. One of the documents we cited in our position paper also seems to indicate that the NRT/RRTs have issued guidance to FOSCs on dispersant pre-authorization decision processes

([http://www.losco.state.la.us/pdf\\_docs/RRT6\\_Dispersant\\_Preapproval\\_2001.pdf](http://www.losco.state.la.us/pdf_docs/RRT6_Dispersant_Preapproval_2001.pdf)). Are you saying that to your point: *“EPA has not used COREXIT/dispersants in response to any oil discharge, and has not directed the use of COREXIT/dispersants in response to any oil discharge”*, none of this content with its citations and EPA RRT Co-Chair behaviors constitutes “directing usage”?

While contentious, there is strong evidence that people and wildlife have died as a result of chemical dispersant usage, hence at minimum, EPA should take a stand against chemical dispersants having a prominent role and position on the NCP and in spill response tool kits rather than continue an obviously defensive approach to their policies using *legally defensible statements*. From an outsiders view, it is rather

appalling that the only response to our FOIA request is the *legal language* above. I am hoping not to engage in word play as the end result of our meetings on this subject, but, truly, we are interested in changing models in oil spill response, finding better technologies and ensuring there is a constructive and transparent engagement between industry, regulators, and private sector stakeholders. Since, through our research, we located a thoroughly workable and far better technology than dispersants, we would like to be sure there are no arbitraries by any government regulatory bodies in *directing* usage of this particular type of bioremediation agent.

Best Regards,

Diane

Diane Wagenbrenner

VP Operations & Public Information

Lawrence Anthony Earth Organization

***Because None Survive Alone***

Campaign Coordinator: [www.ProtectMarineLifeNow.org](http://www.ProtectMarineLifeNow.org)

Change Oil Spill Response Global Alliance Member

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**From:** Tulis, Dana [<mailto:Tulis.Dana@epa.gov>]

**Sent:** Thursday, March 6, 2014 4:10 PM

**To:** Diane Wagenbrenner

**Cc:** Matthiessen, Craig; McLerran, Dennis; Garbow, Avi; Stern, Allyn; 'Barbara Wiseman'; Stanislaus, Mathy; Stanton, Larry; Lynch, Mary-Kay; [Diane\\_Feinstein@Feinstein.senate.gov](mailto:Diane_Feinstein@Feinstein.senate.gov); [Maria\\_Cantwell@cantwell.senate.gov](mailto:Maria_Cantwell@cantwell.senate.gov); [Patty\\_Murray@Murray.senate.gov](mailto:Patty_Murray@Murray.senate.gov); [Barbara\\_Boxer@Boxer.senate.gov](mailto:Barbara_Boxer@Boxer.senate.gov); 'Walter B Parker'; 'Jeanne Pascal'; McCarthy, Gina; [Mark\\_Begich@Begich.senate.gov](mailto:Mark_Begich@Begich.senate.gov); [Lisa\\_Murkowski@Murkowski.senate.gov](mailto:Lisa_Murkowski@Murkowski.senate.gov); [Ron\\_Wyden@Wyden.senate.gov](mailto:Ron_Wyden@Wyden.senate.gov); [Edward\\_Markey@Markey.senate.gov](mailto:Edward_Markey@Markey.senate.gov)

**Subject:** RE: EPA Administrator, Intervention Request re: NRT Chair/LAEO response, FOIA incomplete.

Hello Diane,

Yes, we received your 'efficacy package' and response to Craig Matthiessen. Our response to your October 23 letter is nearly complete and should be coming your way shortly after management review. Also, please note that we continue to work with the US Coast Guard (USCG) and the National Oceanic and Atmospheric Administration (NOAA) on the Lawrence Anthony Earth Organization white paper. This is taking longer than expected since we are thoroughly examining the many references in that paper in an attempt to confirm the findings and we are reviewing the methodology as well. We would like to hold a meeting with you to discuss our questions when that work is done.

Your original FOIA requested that "EPA provide comprehensive documentation of the scientific principles, laws and regulations, documents and decisions on which your continued use of COREXIT/dispersants and denial of our requested non-toxic alternative--OSE II is justified." As we said in our reply "EPA has not used COREXIT/dispersants in response to any oil discharge, and has not directed the use of COREXIT/dispersants in response to any oil discharge." The OSCs make these decisions at the time of the response for coastal areas; generally, that is the USCG. The responsible

party deploys the chemical agent. OSE II is on the Product Schedule and can certainly be used by the OSC as deemed appropriate. Therefore, at this time, we believe that EPA has fulfilled that FOIA request since this is not an activity that EPA has undertaken. However, we can talk further on this point if you like.

Regards – Dana Tulis,  
Deputy Director,  
Office of Emergency Management

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**From:** Diane Wagenbrenner [<mailto:dianeearthorg@att.net>]

**Sent:** Thursday, March 06, 2014 11:25 AM

**To:** Tulis, Dana

**Cc:** Matthiessen, Craig; McLerran, Dennis; Garbow, Avi; Stern, Allyn; 'Barbara Wiseman'; Stanislaus, Mathy; Stanton, Larry; Lynch, Mary-Kay; [Diane\\_Feinstein@Feinstein.senate.gov](mailto:Diane_Feinstein@Feinstein.senate.gov); [Maria\\_Cantwell@cantwell.senate.gov](mailto:Maria_Cantwell@cantwell.senate.gov); [Patty\\_Murray@Murray.senate.gov](mailto:Patty_Murray@Murray.senate.gov); [Barbara\\_Boxer@Boxer.senate.gov](mailto:Barbara_Boxer@Boxer.senate.gov); 'Walter B Parker'; 'Jeanne Pascal'; McCarthy, Gina; [Mark\\_Begich@Begich.senate.gov](mailto:Mark_Begich@Begich.senate.gov); [Lisa\\_Murkowski@Murkowski.senate.gov](mailto:Lisa_Murkowski@Murkowski.senate.gov); [Ron\\_Wyden@Wyden.senate.gov](mailto:Ron_Wyden@Wyden.senate.gov); [Edward\\_Markey@Markey.senate.gov](mailto:Edward_Markey@Markey.senate.gov)

**Subject:** RE: EPA Administrator, Intervention Request re: NRT Chair/LAEO response, FOIA incomplete.

Hello Ms. Tulis and Mr. Matthiessen, Did you receive my efficacy package as requested with email (copy below) as well as my response to Craig?

Can you tell us when we can expect the complete response to our FOIA and 23 Oct Letter Request?

Best Regards, Diane

Diane Wagenbrenner  
VP Operations & Public Information  
Lawrence Anthony Earth Organization

***Because None Survive Alone***

Campaign Coordinator: [www.ProtectMarineLifeNow.org](http://www.ProtectMarineLifeNow.org)

Change Oil Spill Response Global Alliance Member

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**From:** Diane Wagenbrenner [<mailto:dianeearthorg@att.net>]

**Sent:** Tuesday, February 18, 2014 9:56 AM

**To:** 'Tulis, Dana'

**Cc:** 'Perciaspe.bob@Epa.gov'; 'Perciaspe.Bob@epamail.epa.gov'; 'Matthiessen, Craig'; 'McLerran, Dennis'; 'Garbow, Avi'; 'Stern, Allyn'; 'Barbara Wiseman'; 'Stanislaus, Mathy'; 'Stanton, Larry'; 'Lynch, Mary-Kay'; 'Diane\_Feinstein@Feinstein.senate.gov'; 'Maria\_Cantwell@cantwell.senate.gov'; 'Patty\_Murray@Murray.senate.gov'; 'Barbara\_Boxer@Boxer.senate.gov'; 'Walter B Parker'; 'Jeanne Pascal'; 'McCarthy, Gina'; 'Mark\_Begich@Begich.senate.gov'; 'Lisa\_Murkowski@Murkowski.senate.gov'; 'Ron\_Wyden@Wyden.senate.gov'; 'Edward\_Markey@Markey.senate.gov'; 'Barbara Wiseman'

**Subject:** RE: EPA Administrator, Intervention Request re: NRT Chair/LAEO response, FOIA incomplete.

LAEO LOGO - small.jpg



Feb 18, 2014  
National Response Team Chairman  
Ms. Dana Tulis  
U.S. EPA Office of Emergency Management  
Ariel Rios Building (5104A)  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
202-564-8600

Dear Ms. Tulis and all concerned,

As per our conference call on January 14<sup>th</sup>, 2014, I am sending you a summary of the key efficacy documentation for Oil Spill Eater II, per your request.

(Attached as: *Efficacy Documentation Summary*) This and other material has been sent previously on many occasions to EPA officials in which you were copied, including Craig Matthiessen, Nick Nichols, Sam Coleman, Al Venosa, Craig Carroll and RRT members.

All in all, OSE II has been through an enormous vetting process and it now appears this is being done again as part of our request to use OSE II to clean up the Gulf of Mexico. Why more vetting when documentation and field use results already exist?

I would like to make it very clear that our providing this information does not take the place of, nor should it be a reason to delay a complete response to our original Oct 23<sup>rd</sup> FOIA request. (The email thread is below for the record.) While I and a number of qualified scientists and oil spill response professionals have donated thousands of hours of in-kind time to this search for better oil spill response solutions, I do pay taxes and expect the EPA and responsible agencies to engage in scientific due diligence to find non-toxic remedies for oil spill response. I would also expect that if legitimate information was presented that seemed to be a promising solution (OSE II--which gave great *hope* for fully remediating the Gulf of Mexico per more than a dozen qualified reviewing scientists during that disaster who confirmed OSE II had merit and should be used<sup>[i]</sup>), that this would be welcomed by the NRT.

Instead, NRT, RRT responses to submissions and usage requests and even responsible party requests to use OSE II have been obstructed and argued, using out of date and inaccurate NRT guidance documents (particularly, the

May 2000 Bioremediation Fact Sheet) resulting in blocking effective cleanup efforts as was done during the BP spill. We find this behavior odd because even the EPA has employed this bioremediation agent to clean up spills to very good results. [\[iii\]](#) Our work in vetting *NCP Product Schedule* listed products during the BP spill turned up OSE II as a non-toxic replacement for chemical dispersants and we believe its efficacy and toxicity documentation, as well as observable results in actual field use, are more than adequate.

We question how it could be that toxic chemical dispersant pre authorization status is still in place in most coastal Regions while denying the same designation to an effective, non-toxic remedy. Chemical dispersant pre authorization should be suspended immediately based on clearly questionable results in the Gulf of Mexico, insufficient toxicity studies, and due to known and observable harm done to marine and other living organisms. Both Corexit 9500 and 9527-a specifically state in their own MSDS sheets “*Do not contaminate surface waters [with Corexit]*”. That the NRT continues to endorse and defend *pre authorization* of these chemicals despite science-based doubt on efficacy is not a defensible position. The Deepwater Horizon clean up legacy should trigger an aggressive attempt to find something to replace these chemicals, not more *point/counter point*, time-intensive debates over technicalities such as was done with the RRT VII tests on OSE II. One can’t argue the end point of these tests which were a significant remediation of heavy oil per that documentation. Claimed anomalies in the tests should have been reconciled by those conducting the tests, and if some of the information was deemed not scientifically valid, than they should have immediately re-done the tests properly. It, otherwise, becomes a gross misuse of public funds. Rather than trying to show how OSE II *doesn’t work*, (which can’t be done at this point because of its worldwide efficacy from actual field applications and the fact it is officially registered/approved in 17 countries) but which appears to be the effort/agenda of NRT and EPA, why not look at how it *has worked*? Compared to chemical dispersants, it has a track record of absolutely surpassing the dispersant record. We believe OSE II, or agents like it, would solve all the problems that dispersants apparently seek to solve and more; yet your people are still trying to defend and expand pre authorization of toxic chemical dispersants—Alaska is a current blatant effort in that regard. Why?

EPA/NRT/NOAA/Coast Guard could be heroes if they found a non-toxic replacement for dispersants. Coast Guard personnel have repeatedly told us that they feel forced into having these chemicals in their tool kits “because there isn’t anything else”. Working on more *rulemaking* won’t end up in finding better solutions for oil spills.

Ms. Tulis, we would like you, please, to review the attached summary and documentation with an optimistic view vs. pessimistic pre-determined ideas. Once that is done, if there are scientific questions, we would like an opportunity to address them, without interference from people we consider are industry influenced, mis-educated and biased. But outside of that, most important to us is that I am reiterating our original request:

“We further are requesting an actual response to LAEO's formal request to Craig Matthiessen and yourself that asks for a correction to be made in the NRT Bioremediation Fact Sheet which is out of date by 13 years. That inaccurate fact sheet has been used to deny every OSC and RP request to use OSE II on US waters repeatedly over many years despite ample contrary science provided.

In summary, what LAEO cares about is cleaning up the waters. We want a final decision that either:

- a. Permits the use of OSE II to help clean up the Gulf of Mexico and countless other extant spills on U.S. navigable waters which still need to be cleaned up, or
- b. If not approved to use OSE II as a First Response methodology for U.S. Navigable Waters (OSE II is already used throughout the US on land based/soil and other hydrocarbon based spills, used by the US Military for years to successfully and economically remove hydrocarbon based spills from the environment in accordance with the Clean Water Act, etc.) that you provide us with an EXACT listing of reasons detailing why you will not permit OSE II to be used on U.S. waters. Our review of the history of this NCP Listed product indicates years of thorough and successful removal of hydrocarbon based spills from the environment, including effective use on ocean spills in other countries with ample EPA testing and science that supports its use for cleaning up the mess left behind in the Gulf of Mexico, Alaska, Enbridge etc. We want all documentation, correspondence that relates to your decision not to permit its use on U.S. waters, why such a decision was made and who exactly made these decisions. Your response must also include what science a ‘no’ decision is



based on and any other reasoning.

In other words, we want a final decision that is a “Yes” or “No” with exact reasons given.”

As a final note, if the EPA, Coast Guard, NOAA or any other agency has documentation contrary to what we view as unquestionable OSE II efficacy information included herein, this should be released and made public. Otherwise, any disapproval of OSE II requested for use in all applicable environments or any internal directives from any NRT member agency disapproving its use has no scientific basis for disapproval and would be unlawful.

We appreciate your attention to this matter.

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Sincerely Yours,

Diane Wagenbrenner

VP Operations & Public Information

Lawrence Anthony Earth Organization

Campaign Coordinator: [www.ProtectMarineLifeNow.org](http://www.ProtectMarineLifeNow.org)

Change Oil Spill Response Global Alliance Member

email: [dianeeearthorg@att.net](mailto:dianeeearthorg@att.net)

---

**From:** Diane Wagenbrenner [<mailto:dianeeearthorg@att.net>]

**Sent:** Friday, January 10, 2014 4:46 PM

**To:** 'Tulis, Dana'; 'Mccarthy, Gina'

**Cc:** 'Perciasepe.bob@Epa.gov'; 'Perciasepe.Bob@epamail.epa.gov'; 'Matthiessen, Craig'; 'McLerran, Dennis'; 'Garbow, Avi'; 'Stern, Allyn'; 'Barbara Wiseman'; 'Stanislaus, Mathy'; 'Stanton, Larry'; 'Lynch, Mary-Kay'; 'senator@feinstein.senate.gov'; 'senator@cantwell.senate.gov'; 'senator@markey.senate.gov'; 'senator@murkowski.senate.gov'; 'senator@murray.senate.gov'; 'senator@wyden.senate.gov'; 'senator@begich.senate.gov'; 'senator@boxer.senate.gov'; 'Walter B Parker'; 'Jeanne Pascal'

**Subject:** RE: EPA Administrator, Intervention Request re: NRT Chair/LAEO response, FOIA incomplete.

Thank you for responding Ms. Tulis and we truly appreciate the opportunity to conference on this further. Tuesday, Jan 14<sup>th</sup> would work for a conf call schedule with a start time between 9 to 11am PST. (or Wed 15 Jan).

A recommended Agenda for such a call is listed below—please add any points you would like to cover:

CONFERENCE CALL-TENTATIVE TUES 14 Jan 2014 or Wed 15 Jan. (propose exact times you can be available).

[Suggested Conference call Agenda](#)

Conf Call Attendees: Dana Tulis, NRT Chair and Diane Wagenbrenner, Barbara Wiseman and Jeanne Pascal with Lawrence Anthony Earth Organization

[Questions/Points to Address in Conference call:](#)

1. Ms. Tulis mentions working with NOAA and USCG—can you provide who by name with function titles that are working on this request/project?

2. What kind of timeline is NRT et al working against and what aspects of our request are you referring to that you are addressing?
3. We are encouraged that you are addressing the Bioremediation Fact Sheet Revision. Do you have qualified scientists/independent science representation reviewing this? Al Venosa would not be acceptable as a reviewer to us because interested parties have already tried to get corrections made on that channel and we have found Mr. Venosa as well as several long term science advisors to NRT such as Charlie Henry, to be too closely connected to oil/gas industry science divisions/representatives. (EPA's newly formed Science Integrity Officer Network is a testament to that being a known issue.)
4. To help with any resource limitations, and if acceptable to you, the Lawrence Anthony Earth Organization would be willing to reference several of its independent Science and Tech Advisors for your designated reviewers to work with if this would help to expedite or support your work on the Bioremediation Fact Sheet Correction.
5. Discuss and clarify exact request points per original LAEO request (should any of these need to be clarified) and gain a better understanding as to how the NRT will address these points and when we can expect a definitive response.

Reiterate original request points:

"We further are requesting an actual response to LAEO's formal request to Craig Matthiessen and yourself that asks for a correction to be made in the NRT Bioremediation Fact Sheet which is out of date by 13 years. That inaccurate fact sheet has been used to deny every OSC and RP request to use OSE II on US waters repeatedly over many years despite ample contrary science provided.

In summary, what LAEO cares about is cleaning up the waters. We want a final decision that either:

- a. Permits the use of OSE II to help clean up the Gulf of Mexico and countless other extant spills on U.S. navigable waters which still need to be cleaned up, or
- b. If not approved to use OSE II as a First Response methodology for U.S. Navigable Waters (OSE II is already used throughout the US on land based/soil and other hydrocarbon based spills, used by the US Military for years to successfully and economically remove hydrocarbon based spills from the environment in accordance with the Clean Water Act, etc.) that you provide us with an EXACT listing of reasons detailing why you will not permit OSE II to be used on U.S. waters. Our review of the history of this NCP Listed product indicates years of thorough and successful removal of hydrocarbon based spills from the environment, including use on ocean spills in other countries with ample EPA testing and science that supports its use for cleaning up the mess left behind in the Gulf of Mexico, Alaska, Enbridge etc. We want all documentation, correspondence that relates to your decision not to permit its use on U.S. waters, why such a decision was made and who exactly made these decisions. Your response must also include what science a 'no' decision is based on and any other reasoning.

In other words, we want a final decision that is a "Yes" or "No" with exact reasons given."

6. If time permits, Alaska Pre-Authorization of Chemical Dispersants Plan, but should be

separate conf call with different parties. Why did NRT pull the matter to national level. How do we proceed? We would like to understand what your involvement is in the Alaskan Chemical Dispersant Issues and clarify Change Oil Spill Response Global Alliance Alaska Delegation Recommendations. (again, this point to be covered only if time allows)

7. Ensure and clarify that our subject matter and focus should not be mixed up with the Citizens Coalition to Ban Chemical Dispersants which I believe EPA is also addressing—these are two entirely separate matters. Our position paper covers our stance on chemical dispersants (and we will continue our educational campaigns in this regard), but we are interested in getting EXTANT spills cleaned up ASAP i.e. Gulf of Mexico, Enbridge Mich., etc. which are NOT FULLY CLEANED UP. We are not interested in engaging on Subpart J, NCP Product Schedule regulatory revisions at this time. We are concerned about how to speed up the process for getting extant spills cleaned up, including working directly with oil companies/RPs such as BP to address remaining spill sites with non-toxic REMOVAL remedies.

8. NRT Added Agenda Items: ?

Thank you again Dana.

Respectfully Diane

Diane Wagenbrenner

VP Operations & Public Information

Lawrence Anthony Earth Organization

***Because None Survive Alone***

Campaign Coordinator: [www.ProtectMarineLifeNow.org](http://www.ProtectMarineLifeNow.org)

Change Oil Spill Response Global Alliance Member

email: [dianeearthorg@att.net](mailto:dianeearthorg@att.net)

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**From:** Tulis, Dana [<mailto:Tulis.Dana@epa.gov>]

**Sent:** Wednesday, January 8, 2014 6:20 AM

**To:** Diane Wagenbrenner; Mccarthy, Gina

**Cc:** [Perciasepe.bob@Epa.gov](mailto:Perciasepe.bob@Epa.gov); [Perciasepe.Bob@epamail.epa.gov](mailto:Perciasepe.Bob@epamail.epa.gov); Matthiessen, Craig; McLerran, Dennis; Garbow, Avi; Stern, Allyn; 'Barbara Wiseman'; [shannad@whistleblower.org](mailto:shannad@whistleblower.org); Stanislaus, Mathy; Stanton, Larry; Lynch, Mary-Kay; [senator@feinstein.senate.gov](mailto:senator@feinstein.senate.gov); [senator@cantwell.senate.gov](mailto:senator@cantwell.senate.gov); [senator@markey.senate.gov](mailto:senator@markey.senate.gov); [senator@murkowski.senate.gov](mailto:senator@murkowski.senate.gov); [senator@murray.senate.gov](mailto:senator@murray.senate.gov); [senator@wyden.senate.gov](mailto:senator@wyden.senate.gov); [senator@begich.senate.gov](mailto:senator@begich.senate.gov); [senator@boxer.senate.gov](mailto:senator@boxer.senate.gov); 'Walter B Parker'

**Subject:** Re: EPA Administrator, Intervention Request re: NRT Chair/LAEO response, FOIA incomplete.

Dear Ms. Wagenbrenner,

Thank you again for your inquiry. We have been working on your requests and coordinating with NOAA and USCG. We are also reviewing in detail the LAEO report that you provided earlier and we are working within our Agency and NOAA on revisions to the bioremediation fact sheet.

I am more than happy to set up a conference call with you to discuss our progress while we

continue our review. This will, of course, be followed by a written response.

Let me know your availability this and next week, and we will accommodate you.

Thank you

Dana

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**From:** Diane Wagenbrenner <[dianeeearthorg@att.net](mailto:dianeeearthorg@att.net)>

**Sent:** Tuesday, January 07, 2014 3:35:36 PM

**To:** Mccarthy, Gina

**Cc:** [Perciasepe.bob@Epa.gov](mailto:Perciasepe.bob@Epa.gov); [Perciasepe.Bob@epamail.epa.gov](mailto:Perciasepe.Bob@epamail.epa.gov); Mccarthy, Gina; Matthiessen, Craig; McLerran, Dennis; Garbow, Avi; Stern, Allyn; 'Barbara Wiseman'; [shannad@whistleblower.org](mailto:shannad@whistleblower.org); Stanislaus, Mathy; Stanton, Larry; Lynch, Mary-Kay; Tulis, Dana; [senator@feinstein.senate.gov](mailto:senator@feinstein.senate.gov); [senator@cantwell.senate.gov](mailto:senator@cantwell.senate.gov); [senator@markey.senate.gov](mailto:senator@markey.senate.gov); [senator@murkowski.senate.gov](mailto:senator@murkowski.senate.gov); [senator@murray.senate.gov](mailto:senator@murray.senate.gov); [senator@wyden.senate.gov](mailto:senator@wyden.senate.gov); [senator@begich.senate.gov](mailto:senator@begich.senate.gov); [senator@boxer.senate.gov](mailto:senator@boxer.senate.gov); 'Walter B Parker'

**Subject:** RE: EPA Administrator, Intervention Request re: NRT Chair/LAEO response, FOIA incomplete.

Dear Ms. McCarthy, Since this communication probably hit your inbox over the holiday break I am resending and hope to receive a response to this matter soonest.

Sincerely Diane

Diane Wagenbrenner

VP Operations & Public Information

Lawrence Anthony Earth Organization

Ph: 858-531-6200

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**From:** Diane Wagenbrenner [[mailto:dianeeearthorg@att.net](mailto:mailto:dianeeearthorg@att.net)]

**Sent:** Tuesday, December 17, 2013 5:30 PM

**To:** 'Mccarthy, Gina'

**Cc:** 'Perciasepe.bob@Epa.gov'; 'Perciasepe.Bob@epamail.epa.gov'; 'Mccarthy, Gina'; 'Matthiessen, Craig'; 'McLerran, Dennis'; 'Garbow, Avi'; 'Stern, Allyn'; 'Barbara Wiseman'; 'shannad@whistleblower.org'; 'Stanislaus, Mathy'; 'Stanton, Larry'; 'Lynch, Mary-Kay'; 'Tulis, Dana'; 'senator@feinstein.senate.gov'; 'senator@cantwell.senate.gov'; 'senator@markey.senate.gov'; 'senator@murkowski.senate.gov'; 'senator@murray.senate.gov'; 'senator@wyden.senate.gov'; 'senator@begich.senate.gov'; 'senator@boxer.senate.gov'; 'Walter B Parker'

**Subject:** RE: Letter to NRT Chair from LAEO

Dear Ms. McCarthy, Attached please find a copy of an incomplete/partial response to our FOIA/formal request from EPA Officials--Mr. Craig Mattiessen and Ms. Dana Tulis. We are asking for your intervention so that we may receive a full and complete response to our October 23, 2013 request. Please do not defer back to these individuals for handling because truthfully, they have been stonewalling requests from our organization and other stakeholders for several years now. I have escalated to other members of your organization also with no response.

The most recent correspondence thread detailing this request is copied below which was also sent certified mail and signed as received by Ms. Tulis.

We would truly appreciate a response to our exact questions listed below as soon as possible. I have written Senator Dianne Feinstein for assistance to obtain a proper response. See copy of letter attached.

I would be happy to provide all documentation referenced in these letters and submissions if this is not immediately available to you.

Our objectives are twofold: a) get the NRT guidance document on Bioremediation Technology corrected/updated so that it does not continue to mis-direct FOSCs (see 'Corrected Science' doc attached) and b) get the BP Spill in the Gulf of Mexico fully cleaned up using a proven non-toxic remedy our Science and Technology Committee identified that will in fact do the job.

Thank you for your attention to this matter.

Respectfully Submitted,

Diane Wagenbrenner

VP Operations & Public Information

Lawrence Anthony Earth Organization

Ph: 858-531-6200

***Because None Survive Alone***

Campaign Coordinator: [www.ProtectMarineLifeNow.org](http://www.ProtectMarineLifeNow.org)

Change Oil Spill Response Global Alliance Member

email: [dianeearthorg@att.net](mailto:dianeearthorg@att.net)

***Helping members of our planetary ecosystems who cannot speak for themselves***

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**From:** Tulis, Dana [<mailto:Tulis.Dana@epa.gov>]

**Sent:** Tuesday, November 12, 2013 6:24 AM

**To:** Diane Wagenbrenner

**Cc:** [Perciasepe.bob@Epa.gov](mailto:Perciasepe.bob@Epa.gov); [Perciasepe.Bob@epamail.epa.gov](mailto:Perciasepe.Bob@epamail.epa.gov); McCarthy, Gina; Matthiessen, Craig; McLerran, Dennis; Garbow, Avi; Stern, Allyn; 'Barbara Wiseman'; [shannad@whistleblower.org](mailto:shannad@whistleblower.org); Stanislaus, Mathy; Stanton, Larry; Lynch, Mary-Kay

**Subject:** Re: Letter to NRT Chair from LAEO

Thank you, we have received and we are preparing a response.

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**From:** Diane Wagenbrenner <[dianeearthorg@att.net](mailto:dianeearthorg@att.net)>

**Sent:** Monday, November 11, 2013 5:07:37 PM

**To:** Tulis, Dana

**Cc:** [Perciasepe.bob@Epa.gov](mailto:Perciasepe.bob@Epa.gov); [Perciasepe.Bob@epamail.epa.gov](mailto:Perciasepe.Bob@epamail.epa.gov); McCarthy, Gina; McCarthy, Gina; Tulis, Dana; Matthiessen, Craig; Matthiessen, Craig; McLerran, Dennis; McLerran, Dennis; Garbow, Avi; Garbow, Avi; Stern, Allyn; 'Barbara Wiseman'; [shannad@whistleblower.org](mailto:shannad@whistleblower.org)

**Subject:** Letter to NRT Chair from LAEO

Dear Ms. Tulis, The letter we sent 18 days ago (copy below) has not been responded to. While I did see and appreciate that it was forwarded to EPA's FOIA request handler, the Lawrence Anthony Earth Organization is respectfully requesting that you respond to the specific questions in this letter copied below apart from said FOIA request as soon as possible. (our original requests are more than 6 months old.)

For your convenience, I have an excerpt of the original questions/request I am referring to that we are hoping to receive your answer to:

"We further are requesting an actual response to LAEO's formal request to Craig Matthiessen and yourself that asks for a correction to be made in the NRT Bioremediation Fact Sheet which is out of date by 13 years. [request now 6 months old] That inaccurate fact sheet has been used to deny every OSC and RP request to use OSE II on US waters repeatedly over many years despite ample contrary science provided.

In summary, what LAEO cares about is cleaning up the waters. We want a final decision that either:

a. Permits the use of OSE II to help clean up the Gulf of Mexico and countless other extant spills on U.S. navigable waters which still need to be cleaned up, or  
b. If not approved to use OSE II as a First Response methodology for U.S. Navigable Waters (OSE II is already used throughout the US on land based/soil and other hydrocarbon based spills, used by the US Military for years to successfully and economically remove hydrocarbon based spills from the environment in accordance with the Clean Water Act, etc.) that you provide us with an EXACT listing of reasons detailing why you will not permit OSE II to be used on U.S. waters. Our review of the history of this NCP Listed product indicates years of thorough and successful removal of hydrocarbon based spills from the environment, including use on ocean spills in other countries with ample EPA testing and science that supports its use for cleaning up the mess left behind in the Gulf of Mexico, Alaska, Enbridge etc. We want all documentation, correspondence that relates to your decision not to permit its use on U.S. waters, why such a decision was made and who exactly made these decisions. Your response must also include what science a 'no' decision is based on and any other reasoning.

In other words, we want a final decision that is a "Yes" or "No" with exact reasons given."

We would truly appreciate expedited attention given to this matter because we know of numerous unhandled spills including the remains of the BP Macondo spill in the Gulf of Mexico that need urgent clean up by our direct assessments and, we would like to see NCP-listed OSE II used to fully clean up these spills. Even BP officials we have been in communication with have indicated they would use this environmentally-friendly agent if EPA were to authorize it.

Best Regards,

Diane

Diane Wagenbrenner  
VP Operations & Public Information  
Lawrence Anthony Earth Organization  
email: [dianeeearthorg@att.net](mailto:dianeeearthorg@att.net)  
Ph: 858-531-6200

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**From:** Diane Wagenbrenner [<mailto:dianeeearthorg@att.net>]

**Sent:** Wednesday, October 23, 2013 1:58 PM

**To:** 'Dana Tulis EPA'

**Cc:** 'Perciasepe.bob@Epa.gov'; 'Perciasepe.Bob@epamail.epa.gov'; 'McCarthy.Gina@epamail.epa.gov'; 'McCarthy.Gina@epa.gov'; 'Tulis.Dana@epa.gov'; 'matthiessen.craig@epa.gov'; 'Matthiessen.Craig@epamail.epa.gov'; 'McLerran.Dennis@epa.gov'; 'McLerran.Dennis@epamail.epa.gov'; 'Garbow.Avi@epa.gov'; 'Garbow.Avi@epamail.epa.gov'; 'stern.allyn@epa.gov'; 'Barbara Wiseman'

**Subject:** To: NRT Chairman from LAEO--Copy of Letter Sent Certified Mail

Dear Ms. Tulis, I am sending this letter by email hoping to expedite delivery and response. I have also mailed this letter with attachments hard copy to yourself (Certified mail, with request for signed receipt of delivery) and Certified/Priority mail to the cc's.

Hoping to be able to move forward on our original request soonest. Respectfully Submitted,  
Diane

October, 23, 2013  
National Response Team Chairman  
Ms. Dana Tulis  
U.S. EPA Office of Emergency Management  
Ariel Rios Building (5104A)  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
202-564-8600

Dear Ms. Tulis,

As you may or may not be aware, Steven Pedigo and the Lawrence Anthony Earth Organization (LAE0) have been requesting that Oil Spill Eater II (OSE II) be preapproved/preauthorized by EPA and the USCG for use in water for approximately 15 years. EPA has done everything it could to avoid explaining why it is continuing to sole source COREXIT—which is made by Nalco, a company owned by EXXON and other various oil and gas companies. Its use allows oil companies to break the law, spill, damage the environment and fisheries and then profit by cleaning up their own mess. The public would be outraged if they knew what was really going on.

I am not sure if you have been tracking the emails and my correspondence with the Alaska RRT Co Chairs, but they bring to the forefront the same issue that Mark Everett (ARRT Co Chair) told me you acted on. He indicated that you assumed control over our request at the national, NRT level, to handle our formal request for the use of a non-toxic proven alternative to chemical dispersants.

The matter is simple to resolve in our minds: first EPA and the USCG have engaged in illegal sole source procurement for decades. Your denial of the use of OSE II when requested by OSCs, and sole sourcing of COREXIT, is based on incorrect science that has been disseminated throughout the NRT system. Your unit needs to be opened up to free and open competition and the erroneous science being put out broadly by your staff and internal documents must be corrected. Take into consideration that many states and citizens OPPOSE the use of any dispersant, including COREXIT, based on not only accurate scientific data but also the horrific effects they have personally seen on their constituents, family members, and/or friends.

LAE0 and the issue we are focused upon need to be separated from the complex matter involving inclusion of Tribal Governments in Alaska in the clash over dispersant use in Alaskan waters and the Arctic. That is a separate subject; however, it is indicative of the opposition to what you are doing by the peoples living there, as well as the communications problems inherent within the RRT system. It also highlights the EPA's and the USCG's lack of response to

repeated public inquiries on this issue.

LAE0 is demanding under FOIA, 5 USC 552 that you provide comprehensive documentation of the scientific principles, laws and regulations, documents and decisions on which your continued use of COREXIT/dispersants and denial of our requested non-toxic alternative--OSE II is justified.

We further are requesting an actual response to LAEO's formal request to Craig Matthiessen and yourself that asks for a correction to be made in the NRT Bioremediation Fact Sheet which is out of date by 13 years. That inaccurate fact sheet has been used to deny every OSC and RP request to use OSE II on US waters repeatedly over many years despite ample contrary science provided. To reiterate that request; I have re-attached the Email file and its attachments. Additionally, I am including LAEO's formal request sent to the Alaska RRT in May of 2013 (with several hundred pages of documentation supporting the request which can be found at:

<http://protectmarinelifenow.org/alaska-alliance>

In summary, what LAEO cares about is cleaning up the waters. We want a final decision that either:

- a. Permits the use of OSE II to help clean up the Gulf of Mexico and countless other extant spills on U.S. navigable waters which still need to be cleaned up, or
- b. If not approved to use OSE II as a First Response methodology for U.S. Navigable Waters (OSE II is already used throughout the US on land based/soil and other hydrocarbon based spills, used by the US Military for years to successfully and economically remove hydrocarbon based spills from the environment in accordance with the Clean Water Act, etc.) that you provide us with an EXACT listing of reasons detailing why you will not permit OSE II to be used on U.S. waters. Our review of the history of this NCP Listed product indicates years of thorough and successful removal of hydrocarbon based spills from the environment, including use on ocean spills in other countries with ample EPA testing and science that supports its use for cleaning up the mess left behind in the Gulf of Mexico, Alaska, Enbridge etc. We want all documentation, correspondence that relates to your decision not to permit its use on U.S. waters, why such a decision was made and who exactly made these decisions. Your response must also include what science a 'no' decision is based on and any other reasoning.

In other words, we want a final decision that is a "Yes" or "No" with exact reasons given.

As you know, the OSEI Corporation CEO has been requesting a decision on the use of OSE II in U.S. navigable waters for more than 15



years and he has sent recent requests to all the RRTs, which, I presume, prompted you to elevate the Change Oil Spill Response Global Alliance's request to the Alaskan RRT to your office for decision.

Please be very clear: LAEO just wants a spill response that works, removes oil from the environment, does not harm people, fisheries, wildlife or compromise the chemical and biological integrity of U.S. waters – which is the standard mandated by the Clean Water Act, 33 USC 1251 et.seq. LAEO has researched and vetted all NCP listed products and found one that satisfies all our criteria.

There is strong evidence that certain EPA employees have been collaborating with BP, Exxon and other major oil companies to give preferential treatment to chemical dispersants, namely COREXIT products. We also know that there is a major push at the Federal Government level to gain preauthorization and/or pre approval for chemical dispersant use on all U.S. coastlines. We do not know why this is going on, nor do we care. What we do care about is CLEANING UP THE GULF OF MEXICO SPILL USING OSE II and are asking that NRT personnel order all RRTs to cease and desist the illegal sole source procurement practices they are engaged in, or, the many stakeholders in this are prepared go to federal district court, expose the collaboration with the oil companies to the media and public, and we will seek damages from EPA and the USCG as well as seek individual personal liability from all agency personnel involved in perpetuating the use of oil company collaborated false science blocking the use of OSE II and in favor of destructive chemicals. We will await your response.

Sincerely Yours,

Diane

Diane Wagenbrenner

VP Operations & Public Information

Lawrence Anthony Earth Organization

email: [dianeearthorg@att.net](mailto:dianeearthorg@att.net)

Ph: 858-531-6200

&

Barbara Wiseman

Lawrence Anthony Earth Organization

International President

CC: Gina McCarthy, EPA Administrator

CC: Avi, Garbo, EPA General Counsel

CC: Dennis McLerran, EPA, Region 10 Regional Administrator

CC: Allyn Stern, EPA, Region 10, Regional Counsel

\*\*\*\*\* ATTACHMENT NOT DELIVERED \*\*\*\*\*

This Email message contained an attachment named  
image001.jpg  
which may be a computer program. This attached computer program could  
contain a computer virus which could cause harm to EPA's computers,  
network, and data. The attachment has been deleted.

This was done to limit the distribution of computer viruses introduced  
into the EPA network. EPA is deleting all computer program attachments  
sent from the Internet into the agency via Email.

If the message sender is known and the attachment was legitimate, you  
should contact the sender and request that they rename the file name  
extension and resend the Email with the renamed attachment. After  
receiving the revised Email, containing the renamed attachment, you can  
rename the file extension to its correct name.

For further information, please contact the EPA Call Center at  
(866) 411-4EPA (4372). The TDD number is (866) 489-4900.

\*\*\*\*\* ATTACHMENT NOT DELIVERED \*\*\*\*\*

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[\[i\]](#) Governor Jindal's fast track review committee consisting of qualified scientists and oil spill response professionals/consultants, headed by Prof. Dean Mallory of Lafayette University reviewed OSE II along with DEQ teams in Mississippi, Alabama and Florida.

[\[iii\]](#) Osage Indian Reservation Cleanup an example of EPA involvement in using OSE II on US Navigable Waters--- records which should be available in your archives.